

REMARKS

Claims 1-40 are pending. No new matter has been added by way of the present submission. For instance, newly added claims 38-40 are supported by the amino acid sequences of SEQ. ID NOS.: 18, 20, and 22, respectively as well as Figures 3-5 of the present application. Additionally, typographical errors in claims 12 and 23 have been amended. Lastly, the specification, in particular the Brief Description of the Drawings has been amended to correctly reflect the proper Sequence ID Numbers which correspond to the figures being described. Accordingly, no new matter has been added.

Restriction Requirement

The Examiner has asserted at page 2, first full paragraph of the outstanding communication dated July 17, 2003 that the election received by the USPTO on October 15, 2001, was an election "without traverse." Applicants respectfully disagree with the Examiner. A review of the election received by the USPTO on October 15, 2001, for instance page 2, clearly indicates that this was an election with traverse. The Examiner is respectfully requested to withdraw the restriction requirement based upon these arguments and provide search and consideration on all currently pending claims.

Election of Species Requirement

The Examiner indicates that the reply received October 15, 2001 was not fully responsive since it did not provide an election of species for the claims of Group I. Applicants respectively elect the amino acid sequence according to SEQ. ID NO: 22. This sequence utilizes the SYG (Ser-Tyr-Gly) chromophore and bears the F64L and S65T mutations.

It is Applicants' understanding that the Examiner will utilize SEQ. ID NO: 22 as a starting point for search and consideration. Upon indication of allowable subject matter of the elected species the Examiner is expected to expand the search to include other non-elected species. For instance, the Examiner's attention is drawn to SEQ. ID NOS. 18 and 20 which embody slightly different variations of the GFP according to the present invention. Independent claims 1 and 23 provide generic linking claims for each of these independently disclosed species. Accordingly, it would not represent an undue burden for the Examiner to search and consider each of these species in addition to the elected species with the intent of finding the generic claims ultimately allowable.


If the Examiner has any questions or comments, please contact Craig A. McRobbie, Reg. No. 42,874 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

Appl. No. 09/619,310

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  #42.874  
for Leonard R. Svensson, #30,330

LRS/CAM/jeb  
3759-0106P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000